



United States Department of the Interior

OFFICE OF THE SECRETARY
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Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

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OFFICE OF THE
SECRETARY
2005 JUL 12 P 4: 04
FEDERAL ENERGY
REGULATORY COMMISSION

**RE: COMMENTS ON THE FINAL ENVIRONMENTAL IMPACT STATEMENT
FOR THE DRAFT CONFORMITY DETERMINATION FOR THE
PROPOSED WEAVER'S COVE LNG PROJECT, BRISTOL COUNTY,
MASSACHUSETTS, (Docket Nos. CP04-36-000, and CP04-41-000)**

Dear Ms. Salas:

The U.S. Department of the Interior (DOI) has reviewed the subject final environmental impact statement (FEIS) for the development of a liquefied natural gas (LNG) terminal and natural gas pipeline facilities proposed by Weaver's Cove Energy.

DOI previously submitted comments provided by our U.S. Fish and Wildlife Service (FWS), and our National Park Service (NPS). Our comments on the FEIS are as follows:

General Comments

DOI's comments on the Weaver's Cove draft environmental impact statement (DEIS) dated September 17, 2004, included reference to the statutory protections afforded to rivers under the congressionally authorized study for potential designation as components of the National Wild and Scenic Rivers System, (Wild and Scenic Rivers Act, Section 7(b)):

"....and, no department or agency of the United States shall assist by loan, grant license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval"

This statutory provision applies during the period of the study and up to three years following submittal of a final report to Congress.

The Federal Energy Regulatory Commission's (FERC) FEIS concludes its treatment of the Wild and Scenic River issue (page 4-168) as follows:

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"For reasons stated above, we do not believe that construction or operation of the proposed project would have a substantial adverse effect on the Taunton River's potential designation as a Wild and Scenic River. However, final determination on whether the Weaver's Cove LNG Project would have a substantial adverse affect on the Taunton River's potential designation as a Wild and Scenic River would be made by the U.S. Department of the Interior. In addition, the COE would provide a draft of its permits pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the CWA to the NPS for review. If the NPS objects to the permit under the provision of the WSR Act, the COE would not issue the permits. Therefore we recommend that:

- Prior to construction, Weaver's Cove Energy must file with the Secretary, documentation of concurrence from the U.S. Department of the Interior that the project would not have a substantial adverse affect on the Taunton River's potential designation as a Wild and Scenic River; and that the project would be consistent with the WSR Act if the Taunton River were designated a Wild and Scenic River."

Current Status of Wild and Scenic River Consideration

In the nine months since FERC issued the DEIS for comment, the Wild and Scenic River Study of the Taunton River has progressed, and is now in the final stage.

As of June 6, 2005, the legislative bodies of nine out of 10 communities abutting the main-stem of the Taunton River voted to endorse the Taunton River Stewardship Plan and seek Federal designation as a Wild and Scenic River. The City of Fall River has specifically requested that the designation extend all the way to Mt. Hope Bay at the 195 Bridge (Braga Bridge). This showing of strong local support is the final step required to judge suitability for Federal designation.

The Taunton Wild and Scenic River Study Advisory Committee (representing local, State, and non-governmental river stakeholders) recommended Congressional designation of the entire main stem of the Taunton River from the confluence of the Town and Matfield Rivers to Mt. Hope Bay as a National Wild and Scenic River. The NPS's draft report will be issued later this summer.

Protection of Outstanding Fishery Values

As a part of DOI's comments on the DEIS dated September 17, 2004, the protection of the outstanding fishery value of the Taunton River was highlighted as a critical issue related to the potential Wild and Scenic River designation. The importance of these resource values has been expanded upon by State and Federal agencies, including National Marine Fisheries Service and Massachusetts Division of Marine Fisheries.

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It does not appear that the conditions proposed as a part of the FEIS adequately address protection of the fishery resource. Of particular concern to the NPS, the failure to require recommended dredging time of year restrictions to protect anadromous fish resources could result in a direct and adverse impact to the values for which any portion of the Taunton River would be designated as Wild and Scenic. The National Marine Fisheries Service (NOAA Fisheries) specifically commented in this regard:

"In order to take a risk averse approach for the conservation of anadromous fishery resources within the Taunton River, NOAA Fisheries recommends that no work should be conducted between March 1-July 31 of any year to avoid adverse impacts on upstream spawning migrations of Alewife, Blueback Herring, Rainbow Smelt, and American Shad. Downstream migrations of anadromous fishery resources in the Taunton River generally occur and need protection between June 15 and October 31 of any year. Alternatives should be developed and analyzed that avoid adverse impacts on downstream migrations of these aquatic resources of national importance."

Our NPS will continue to consult and coordinate with the appropriate fishery resource experts and permitting agencies on the conditions that would be necessary to safeguard the outstanding fishery resource of the Taunton River, including its anadromous fish stocks.

In the absence of satisfactory fishery resource protection, we will not be able to provide the statutorily required affirmative statement of no adverse impact to the values for which the Taunton River may be included in the National Wild and Scenic River System.

Site Impacts to the Lower Taunton River

All of the communities abutting the lower Taunton River have voted to endorse the Taunton River Stewardship Plan and seek federal legislation to designate the Taunton River to Mt. Hope Bay as a component of the Wild and Scenic Rivers System.

The relevant State and Federal fishery agencies, in their comments on the DEIS, have indicated that there may be unavoidable adverse site impacts related particularly to the enlargement of the turning basin and development of the Weaver's Cove site. These include the permanent loss of 11 acres of winter flounder habitat and 1.15 acres saltmarsh and intertidal/subtidal habitat. The FEIS appears to agree that these impacts to this portion of the Lower Taunton River are unavoidable.

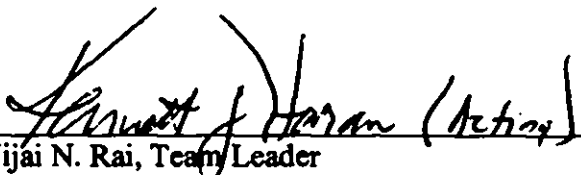
In addition, the proposed development of the Weavers Cove site for LNG purposes appears to be contrary to the goals and intentions of the City of Fall River as it relates to the desire to seek Federal Wild and Scenic River designation and endorse the Taunton River Stewardship Plan. Development of this site would foreclose opportunities for the City to connect a significant portion of their waterfront to the Taunton River through redevelopment, emphasizing public access and recreation as an important aspect of economic revitalization and quality of life improvement.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding (Docket Nos. CP04-36-000, CP04-41-000).



Vijai N. Rai, Team Leader
Office of Environmental Policy and Compliance
202-208-6661

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Dated